

FILED
JAN 31 2008
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

UNITED STATES OF AMERICA,	*	CR. 07-30056(01)
	*	
Plaintiff,	*	
	*	
-vs-	*	REPORT AND RECOMMENDATION
	*	ON DEFENDANT'S CHANGE OF PLEA
	*	AND ORDER OF DETENTION
HAROLD STANDING BEAR, a/k/a	*	
HAROLD PERKINS,	*	
	*	
Defendant.	*	

This matter came on before the Court for a change of plea hearing on Thursday, January 31, 2008. Defendant, Harold Standing Bear, a/k/a Harold Perkins, appeared in person and by his counsel, Christina L. Fischer, while Plaintiff, United States of America ("Government") appeared through Jeremy R. Jehangiri, an Assistant United States Attorney.

Defendant consented in open court to the change of plea before the Court and his consent was knowingly and voluntarily made. The Government also consented to the Court taking Defendant's plea. The Defendant also consented in open court (by Waiver of Indictment) to proceeding by Information instead of by Indictment.

Defendant has reached a plea agreement with the Government wherein he intends to plead guilty to the charges as contained in the Information. Defendant is charged in the Information with Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substance in violation of 21 U.S.C. §§841(1)(1) and 846. At the hearing, Defendant was advised of the nature of the charge to which he would plead guilty and the maximum penalty

applicable, specifically: Five (5) years custody; \$250,000 fine, or both; a period of supervised release of at least two (2) years, but not more than three (3) years; two (2) additional years imprisonment if supervised release is revoked; \$100 assessment; and restitution .

Upon questioning Defendant personally in open court, it is the finding of the Court that Defendant is fully competent and capable of entering an informed plea, that he is aware of the nature of the charged offense and the consequences of the plea, and that his plea of guilty to the offense contained in the Information is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. It is, therefore, the Court's recommendation that the guilty plea to the charge contained in the Information be accepted and that Defendant be adjudged guilty of that offense.

It is further ORDERED that Defendant shall remain released under the same terms and conditions as previously ordered.

NOTICE TO PARTIES

The parties have ten (10) days after service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. §636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court.

Dated this 31st day of January, 2008, at Pierre, South Dakota.

BY THE COURT:



MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTEST:

JOSEPH HAAS, CLERK

BY:


Deputy

(SEAL)